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PATENT

Attorney Reference Number 3382-61341-01
Application Number 10/017,861

Remarks

The Applicants respectfully request reconsideration in view of the following comments. Claims 1-59 are pending. In the Office action mailed October 6, 2005, the Examiner imposed a five-way restriction requirement as follows:

- group I -- claims 1-16, 29, and 30;
- group II -- claims 17-28;
- group III -- claims 31-35;
- group IV -- claims 36-54; and
- group V -- claims 55-59.

To expedite prosecution, the Applicants elect the claims of group I with traverse. The Applicants respectfully disagree with the reasoning stated for the restriction requirement and with the Examiner's characterizations of the claims, however, for at least the following reasons. Moreover, as an alternative to the five-way restriction requirement set forth in the Office action, the Applicants suggest a four-way grouping of claims 1-59, as described below.

First, the Examiner has not shown how the sub-combinations of the Examiner's groups I through IV, respectively, are separately usable. The Examiner writes that the sub-combinations of groups I through IV "each have a separate utility such as audio quality measurement in single channel or other audio environments." [Office action, page 3, citing MPEP 806.05(d).] The Applicants understand how this statement might apply to group V (which includes claims reciting, for example, "multi-channel audio data"), but the Applicants do not understand the applicability of the statement between sub-combinations of the Examiner's groups I through IV, respectively.

Second, the Applicants disagree with the Examiner's reasons for insisting on the restriction requirement. The Examiner writes, "the search required for each group is not required for the other groups." [Office action, page 3; see MPEP 808.02.] With this general statement, the Examiner has not shown the subject matter of the respective groups to have different fields of search and has not explained why "there would be a serious burden on the examiner if restriction is not required." [MPEP 808.02.] According to MPEP 808.02, "Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s)..., a different field of search is shown" and "The indicated different field of

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search must in fact be pertinent to the type of subject matter covered by the claims." [MPEP 808.02.] The Applicants acknowledge that the scope of the respective claims is different, but the Examiner has not made the showing required by MPEP 808.02, and the Applicants submit that a separate search should not be required for each of the five groups of the restriction requirement set forth in the Office action.

Finally, the Applicants respectfully submit that claims 31-35 should be in group I with claims 29 and 30. In particular, claim 29 (classified in group I in the Office action) should be in the same group as claim 34 (dependent on claims 31 and 33, and classified in group III in the Office action). Claims 29 and 34 each recite "effective excitation pattern for a block." Further, claim 29 recites "ratio of the noise pattern to the effective excitation pattern," whereas claim 34 recites "noise to excitation ratio for the block." As such, the Applicants respectfully suggest the following revised groups for claims 1-59:

group I -- claims 1-16 and 29-35;

group II -- claims 17-28;

group III -- claims 36-54; and

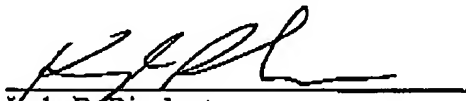
group IV -- claims 55-59.

Revised group I includes the claims of groups I and III from the Office action. Revised groups II, III, and IV correspond exactly to groups II, IV, and V, respectively, from the Office action.

Respectfully submitted,

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